

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

HORACE BUSH, #138454,
Petitioner,

v.

CASE NO. 2:06-CV--428-MHT

LEON FORNISS, et al.,
Respondents.

SPECIAL REPORT

COME NOW, the Alabama Board of Pardons and Paroles, hereinafter referred to as the Board, represented by the undersigned counsel, and shows the Court as follows:

1. Bush has failed to exhaust state court remedies in relation to his claims against the Board prior to his instituting this action, as required by 28 U.S.C.A. §2254.

2. The proper avenue to challenge the Board's actions in parole decisions and parole revocation procedures is by petition for writ of certiorari with the Circuit Court of Montgomery County. See Gholston v. Board of Pardons & Paroles, 627 So.2d 945

(Ala.Civ.App.1993)). See *Sellers v. State*, 586 So.2d 994 (Ala. Crim. App. 1991).

3. None of the defaulted claims relating to the Alabama Board of Pardons & Paroles in Petitioner's Application for Habeas Corpus have been presented to the state court. All of the claims presented by Petitioner in his Application for Habeas Corpus could have been brought in state court under a common-law writ of certiorari in Montgomery County Circuit Court. See *Gholston, supra*. This Court is barred from reviewing Petitioner's claims.

WHEREFORE, based on the foregoing, Petitioner's Application for Habeas Corpus is due to be DENIED.

Respectfully submitted,
TROY KING
ATTORNEY GENERAL
KIN 047

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GRI026

s/DANA L. PITTMAN
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CERTIFICATE OF SERVICE

I hereby certify that on 7-12-06, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: (None), and I hereby certify that, on 6-12-06, I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

**HORACE BUSH
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P.O. BOX 56
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Done this 12th day of JULY, 2006.

Respectfully submitted,

s/DANA L. PITTMAN
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